



EX-PARTE PRESENTATION OF UNITED SYSTEMS ACCESS, INC. IN THE TRIENNIAL REVIEW PROCEEDING

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I. The Telecom Act of 1996 (A Carrot and Stick Approach)

- ❑ The Telecom Act Was Created Using A Carrot And Stick Approach That Requires Unbundled Switching To Be Viewed In the Context Of The Congressional Mandate
- ❑ The RBOCs have consistently redirected the nation's inquiry away from the significant regulatory plan that underlies the Act
- ❑ It was Congress' intent to introduce true competition, which Congress recognized could only be achieved through opening the RBOCs' networks
- ❑ The Congressional grant of 271 authority was contingent on compliance with the 14-point competitive checklist, an important requirement of which is that the RBOCs must provide access to UNEs



I. The Telecom Act of 1996 (A Carrot and Stick Approach) (cont.)

- ❑ The Commission and Congress, through passage of the Telecom Act, envisioned three paths to market entry:
 - ▼ The building of new facilities
 - ▼ Accessing the unbundled network elements of RBOCs
 - ▼ Reselling the services of RBOCs
- ❑ No preference was given among the market entry paths above
- ❑ RBOCs have largely received 271 authority
- ❑ RBOCs are reneging on their obligations with specious UNE arguments
- ❑ USA has built a residential service plan based on UNE switching



II. Background on the Company

- ❑ United Systems Access, Inc. ("USA"), is an established and profitable local service provider focused on the acquisition of young or ailing companies that show promising growth potential.
- ❑ USA offers local, regional and long distance telephone services in 12 eastern states from Maine to Virginia, including Washington, D.C., and long-distance and dial-up Internet access nationally.
- ❑ The company has earned an impressive reputation for the successful transformation and managed growth of troubled companies. Most recently, the company completed its 18-month clean up of bankrupt Essential.com, a \$75 million venture capital bust.
- ❑ USA exists today because of both the financial troubles of competitive local exchange carriers (CLECs) and the promise of viable operating margins through UNE-P. The company is committed to delivering low-cost local and long distance voice services and Internet access to under or inadequately served consumer markets throughout the United States.



III. Impairment Analysis

- Recent court decisions, including *USTA v. FCC*, have indicated that cost remains the touchstone of the "impairment" test
- USA's ability to provide telecommunications services will be impaired absent unbundled access to local switching
- As discussed below, if the Commission removes local switching from the list of UNEs it will be eliminating a number of business models and mandating a single form of competition
- A number of larger and better capitalized companies have attempted to compete using this model and failed
- The CLECs that remain are struggling under heavy debt and damaged business models
- The next section provides a Connecticut example that USA has been researching

IV. Cost Study (A Connecticut Example)

- USA will subtend 10 central offices in each of the three largest markets in Connecticut: Hartford, New Haven, and Bridgeport
- The average distance between USA's switch and Verizon's central offices equals 50 miles
- There is a 3:1 trunking requirement, *i.e.*, one DS0 trunk is required for every three customers
- USA has 50,000 customers served by these central offices
- Spread of customers is geographically uniform
- The number of DS0 trunks required between USA's switch and each Verizon central office equals 556 ($1667 / 3$ per trunk)
- 24 T-1s (24 lines each) per central office ($556 / 24$ lines per T-1)
- Collocation and building of transport facilities will take under a year
- Average customer local service revenue is \$32.50

IV. Cost Study (A Connecticut Example) (cont.)

- Non-recurring costs (NRC) = \$10,038,000
 - ▼ Class V Switch: equipment, installation and testing (\$4,250,000)
 - ▼ Hot cut costs are \$2,500,000
 - ▼ Colo costs: cage (\$50,000) + aggregation equipment (copper \$50,000) x 30 (install and setup included) (\$3,000,000)
 - ▼ Total non-recurring costs for T-1 facilities are \$288,000

- Monthly recurring costs (MRC) = \$941,000
 - ▼ Switch maintenance: \$40,000
 - ▼ Transport costs (T-1 facilities): \$216,000
 - ▼ Colo leasing costs: \$60,000 (\$2,000 x 30 colos)
 - ▼ UNE-Loop cost: \$625,000 (\$12.50 x 50,000 customers)

IV. Cost Study (A Connecticut Example) (cont.)

- The Break Even Point

- ▼ Total Revenue for 50,000 customers per month = \$1,625,000
(at an average of \$32.50 per customer)

- ▼ Minus recurring cost paid to ILECs of \$941,000

- ▼ Assuming \$8 million borrowed at \$250,000 per month

- ▼ You end up with \$434,000 which marginally covers operating costs

- Even with 50,000 customers this does not produce an attractive investment

- It will not be an attractive investment without a reduction in the price of UNEs and/or the price of transport



V. Cost Study Summary

- ❑ The recent economic meltdown in the telecommunications market demonstrates the impracticalities of a “field of dreams”-based strategy
 - ▼ Witness the failure of Allegiance and Focal
- ❑ More importantly, USA would be remanded to an unprofitable “resale only” strategy
 - ▼ Only select high-volume central offices could continue to be served by USA
 - ▼ USA would not be able to serve rural or other high cost customers
- ❑ This outcome will serve the interests of the RBOCs who then stand ready to accuse CLECs of cherry-picking the most profitable markets



V. Cost Study Summary (cont.)

- ❑ USA wants to deploy new facilities in the future but must meet the minimum aggregation within a reasonable number of colos
- ❑ USA can only reach this core customer base through reliance on UNE-P
 - ▼ Resellers lack the ability to raise the capital necessary to deploy such facilities
 - ▼ The Commission's facilities-based proposal would force USA to build a network before having a single customer
- ❑ USA should be allowed to continue its business in line with the original intent of Congress and prior Commission policy



VI. Unbundling and State PUCs

- ❑ The states are better positioned to determine whether CLECs are impaired without access to an ILEC's network
- ❑ The Commission should not abrogate the state's current ability to set unbundling standards
- ❑ The Commission has previously recognized that State PUCs have parallel jurisdiction in the area of unbundling
- ❑ In *USTA v. FCC* the court emphasized that regulators must look at unbundling with a greater level of "granularity," *i.e.*, local factors should play a larger role in establishing unbundling standards
- ❑ States are in the best position to determine UNE costs to CLECs based on local market conditions

VII. Ramifications of UNE Reconsideration

- ❑ The Commission and the State PUCs must institute proceedings to reduce transport costs, collocation costs, and hot cut costs so they do not act as a barrier to market entry
 - ▼ States, due to their familiarity with local market conditions, are in the best position to address these issues though national guidelines may be needed to address some concerns
- ❑ ILECs will necessarily be subjected to increased obligations requiring rulemaking proceedings under a new scenario
 - ▼ The Commission and State PUCs will have to reevaluate the RBOCs' position that they have no obligation to deploy new facilities for CLECs
 - It would be a significant barrier to entry without such an obligation
 - Timing issues will become more pronounced
- ❑ RBOCs are saturated
 - ▼ Collocation takes months
 - ▼ RBOCs can only handle a handful of hot cuts per day
- ❑ Mass migration of CLEC customers is virtually impossible